

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Newspaper/Radio Cross Ownership) **MM Docket No. 96-197**

To: The Commission - Mail Stop 1170

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COMMENTS OF PATHFINDER COMMUNICATIONS CORPORATION

1. Pathfinder Communications Corporation ("Pathfinder") hereby submits these comments in response to the Commission's *Notice of Inquiry* ("NOI") in the above-referenced proceeding, released October 1, 1996. Pathfinder is the licensee of several radio broadcast stations, including in Elkhart and other communities in the state of Indiana. Its principals are also principals in Truth Publishing Co., publisher of the *Elkhart Truth* newspaper in Elkhart. Pathfinder's current broadcast-newspaper cross-ownership in Elkhart is grandfathered, but the company requires a waiver of the newspaper-broadcast ownership rule to acquire further stations. It must purchase further stations to preserve its competitive position so that it can survive in a marketplace where ownership of four to eight stations in a market is fast becoming the industry norm.

2. Pathfinder urges adoption of a policy which would establish a presumption in favor of waiving the newspaper-radio cross-ownership rule where more than one daily newspaper serves the area within the radio station's principal city contour and the second newspaper has comparable circulation to the first, because in that situation, the traditional market power normally associated with newspapers does not exist. At a minimum, the rule should be waived where the radio station

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and the newspaper are located in *different* communities and the broadcast station's community of license itself has its own separately owned newspaper of comparable circulation.^{1/}

3. The Commission states in the *NOI* that the newspaper/broadcast cross-ownership rule rests on the “twin goals of promoting diversity and economic competition.”^{2/} In other words, regardless of the legal right to publish an unlimited number of newspapers under the First Amendment, economic realities today typically restrict publication to only one major daily newspaper in a market, resulting in a substantial amount of market power in the hands of the publisher; and enhancement of that power by adding a broadcast facility raises concerns about both the ability of other broadcasters in the market to compete and the number of voices disseminating ideas to the market. Those concerns are substantially lessened when there are two newspapers of comparable size in the market, because after the broadcast acquisition, there remains at least one other major local media voice (another paper of comparable size) in the market, the presence of which will ensure that various community interests and viewpoints are addressed and heard and that advertisers have a realistic choice of outlets.^{3/} Thus, restrictions on the common ownership of the radio station and a newspaper under these circumstances is unnecessary to preserve either competition or diversity.

^{1/} Pathfinder will not address newspaper-TV cross-ownership situations in these comments, because it does not own or plan to purchase television stations. It does believe, however, that radio cross-ownership is much less likely to raise market domination concerns than TV cross-ownership.

^{2/} *NOI* at ¶ 3.

^{3/} Indeed, with the increasing concentration of ownership of broadcast stations, often resulting in only a small number of broadcast owner-voices in a given market, Pathfinder questions whether the market power of newspapers should be of concern at all any more.

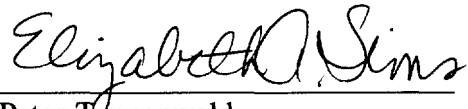
4. An even more compelling case is presented for waiver where the radio station's community of license and the community in which the newspaper is published are separate and distinct communities, and a competing newspaper is published in the radio station's community. In such a situation, the two communities often retain separate identities and their respective residents pursue different interests. The acquisition by a newspaper in one community of radio stations in the other will not change that situation.

5. Pathfinder currently has an application pending which illustrates why rigid application of Section 73.3555(d) is unreasonably and unnecessarily restrictive. It has applied to purchase WNDU-AM-FM, South Bend, Indiana.^{4/} The predicted 1 mV/m contour of WNDU-FM encompasses the entire community of Elkhart, Indiana, where the *Elkhart Truth* is published. However, South Bend has its own daily newspaper, the *South Bend Tribune*, of comparable circulation to the *Elkhart Truth*. South Bend and Elkhart are each well-served by a variety of media outlets and the two communities are separate economic markets. Based on those facts, Pathfinder's application requests a permanent waiver of the newspaper/radio cross-ownership rule, on the ground that the acquisition of radio stations in South Bend will not enhance the market power of the *Elkhart Truth* in either Elkhart or South Bend. A presumption in favor of waiver in this kind of situation would facilitate processing of applications like Pathfinder's and would save the Commission resources that will have to be expended evaluating Pathfinder's request and bringing it to the full Commission for action.

^{4/} File Nos. BAL-960809GQ, BALH-960809GR. Informal objections and a set of "comments" have been filed against those applications. A copy of these comments is being served on counsel for the objector and commenter.

6. For the above reasons, Pathfinder supports the adoption of a policy that would allow the common ownership of a radio station and a newspaper in the same community, where the newspaper does not have significant market power because there is more than one comparable daily newspaper serving the area within the radio station's principal city contour. Alternatively, the Commission should permit cross-ownership where a radio station and newspaper are located in two different communities and the radio station's community of license has its own comparable newspaper.

Respectfully submitted,

A handwritten signature in cursive script that reads "Elizabeth A. Sims". The signature is written in dark ink and is positioned above a horizontal line.

Peter Tannenwald
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